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September 3, 2014

**Via ECF**

Hon. Joseph C. Spero  
U.S. District Court, N.D. Cal.  
Courtroom G - 15th Floor  
450 Golden Gate Avenue  
San Francisco, CA 94102

Re: *In re Optical Disk Drive Products Antitrust Litig.*,  
*All Actions*  
Case Nos. 3:10-md-2143 RS; 3:13-cv-02124-RS (N.D. Cal.)

Your Honor:

During the Department of Justice's ("DOJ") criminal investigation into antitrust offenses in the optical disk drive industry, several recordings were made between a government cooperator and several co-conspirators who are defendants in this civil action.<sup>1</sup> Plaintiffs served a subpoena on the DOJ for these recordings and any verbatim transcripts. After repeated conferences, plaintiffs and the DOJ, Antitrust Division, agreed to the terms of production and use of these recordings. The parties' agreement balances the interests in potentially highly relevant materials being available to civil litigants and the DOJ's goals in encouraging the use of the DOJ's amnesty and cooperation programs as a whole.

By way of letter, defendant Toshiba Samsung Storage Technology Corp. Korea ("TSST-Korea") stated that it objected to plaintiffs' subpoena. TSST-Korea attended the in-person

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<sup>1</sup> Philips publicly revealed its status as the cooperating entity in the DOJ's optical disk drive investigation in its 2013 Annual Report:

On October 27, 2009, the Antitrust Division of the United States Department of Justice confirmed that it had initiated an investigation into possible anticompetitive practices in the Optical Disc Drive (ODD) industry. Philips Lite-On Digital Solutions Corp. (PLDS), a joint venture owned by the Company and Lite-On IT Corporation, as an ODD market participant, is included in this investigation. PLDS and the Company have been accepted under the Corporate Leniency program of the US Department of Justice and have continued to cooperate with the authorities in these investigations. On this basis, the Company expects to be immune from governmental fines.

See Koninklijke Philips N.V., Annual Report (Form 20-F) (Feb. 25, 2014), available at <http://www.philips.com/about/investor/financialresults/annualreports/index.page> (last visited September 2, 2013).

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conference on July 31, 2014, as required by this Court's standing order. No other defendants attended in person. The DOJ provided TSST-Korea with a copy of the proposed protective order prior to this filing with the Court. TSST-Korea has informed plaintiffs that they intend to both move to quash and dispute the terms of the stipulated protective order. Plaintiffs' position is if Defendants intend to quash Plaintiffs' subpoena they must do so pursuant to this Court's rules, and the parties' joint letter brief should be due on or before Wednesday, September 10, 2014. Plaintiffs and the DOJ have agreed that they would wait for resolution of any motion by TSST-Korea before receiving any of the protected materials under the subpoena.

Respectfully Submitted,

/s/ Cadio Zirpoli

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*Chairman of the Executive  
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/s/ Shana E. Scarlett

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